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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/223,875	12/31/1998	RICHARD C. FENWICK JR.	ONCO-003	4405

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Paul A Ragusa  
Baker Botts LLP  
30 Rockefeller Plaza  
New York, NY 10112

EXAMINER

BROWN, RUEBEN M

ART UNIT PAPER NUMBER

2611

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/223,875	<b>Applicant(s)</b> FENWICK ET AL.	
	<b>Examiner</b> Reuben M. Brown	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/26/2004 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 7/26/2004, regarding the 112, 1<sup>st</sup> paragraph rejection has been fully considered, and are deemed persuasive. Therefore, the 112, 1<sup>st</sup> paragraph rejection has been withdrawn. Applicant's arguments filed 7/26/2004 regarding 102(e) rejection have been fully considered and are not persuasive.

On page 6, applicant points to Hwang, col. 8, lines 23-30, and states that Hwang fails to disclose or suggest the claim limitation. Examiner respectfully disagrees with applicant's characterization of the reference. First of all, the cited portions of Hwang discloses that, "Every

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Channel-Processor can provide the multimedia on-demand service for one user and at the same time...”, emphasis added. Meaning that even though the Channel-Processor may be enabled to operate in a certain manner, it is not required or limited to that specific embodiment. Thus, the reasonable interpretation is that the Channel-Processor can provide private viewing session to a single viewer only and at the same time interface with iTV servers and LAN servers *or* the Channel-Processor can provide private viewing session to a single viewer only, while not interfacing with other iTV servers and LAN, at least in the instance that no other viewers are simultaneously requesting a group session with the Channel-Processor.

Examiner also points out that Hwang does not explicitly state that the Channel-Processor provides the private viewing to a particular user only, as recited in claim 1, while concurrently or simultaneously interfacing with the with iTV servers and LAN..., to provide group demand services to other customers.

Furthermore, claim 1 requires, “responding to the command by assigning an assignable computing device to the particular user only”. It is pointed out that this limitation reads on the disclosure that while a particular customer is in a private viewing session with a particular Channel-Processor, when a request comes in from a different customer, that particular Channel-Processor simply redirects the instant request to a different Channel-Processor, (see col. 10, lines 37-42). Moreover, Hwang goes on to teach that once a Channel-Processor goes into private viewing session, that the iTV server, follows a particular channel allocation scheme, including “avoid allocating a Channel-Processor with more than one active iTV panel session”, see col. 17,

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lines 20-31. Therefore, examiner contends that while in private viewing session with a particular customer, a Channel-Processor is assigned to the particular user only, which reads on the claimed language of claim 1.

Finally, the claim ‘assignable computing device’, is broad enough to read on the private viewing session or channel, in Hwang, which is clearly assigned to one and only one particular user at a time, col. 16, lines 5-10.

Applicant argues on page 7, that Hwang does not provide the claimed menu containing a selection of video programs to the user’s audiovisual monitor. Examiner also respectfully disagrees and points out that Hwang clearly teaches that while in private viewing session, the customer is presented with menus for selecting video programming, col. 17, lines 55-67. Hwang discusses that the Movie on demand, first displays a movie catalog page, which reads on the claimed menu.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Hwang, (U.S. Pat # 6,049,823).

Considering claim 1, the claimed method of presenting an audiovisual signal to a user's audiovisual display monitor comprising receiving a command from the user and responding to the command by assigning an assignable computing device to the particular user only is met by the disclosure of Hwang that when a viewer requests a private session, the system allocates a particular Channel-Processor to that user, col. 13, lines 40-61 & col. 17, lines 15-40. Hwang teaches that each private viewing session requires a dedicated Channel-Processor for each customer.

As for the additionally claimed feature of establishing a communications link between the user's audiovisual device and the ACD, the above disclosure of Hwang reads on the subject matter; also see col. 16, lines 5-8.

The Channel-processor in Hwang reads on an ACD, since it is disclosed that it is a PC, see col. 4, lines 52-60 & col. 13, lines 1-5.

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Regarding the feature of presenting a menu containing a selection of video programs to the user's audiovisual display monitor with the ACD, selecting one of the video programs and routing the instant selected video program to the user's audiovisual display monitor, Hwang teaches that once a private viewing session is activated, that the viewer is enabled to select and receive movies on demand from a menu, see col. 16, lines 61-67 & col. 17, lines 50-67 thru col. 18, lines 1-25. Hwang furthermore discloses that on a private viewing channel, the user can order any on-demand services for movies, games and shopping; see col. 1, lines 55-60.

Considering claims 2-3 & 17-18, Hwang teaches an MCI interface to play and control MPEG movies, such that the control panel may be overlaid on top of the movie; see col. 18, lines 5-24.

Considering claims 4-5, 10 & 19-20, Hwang teaches that video programming may be transmitted to viewers using well known RF modulation technology; see col. 6, lines 40-43; col. 9, lines 34-52 & col. 13, lines 64-67 thru col. 17, line 1.

Considering claims 6-8 & 21-23, Hwang teaches that the user may order currently available movies using a series of catalog pages; col. 1, lines 55-60; col. 17, lines 55-67 thru col. 18, lines 1-25.

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Considering claims 9 & 24, the claimed feature of the menus reflecting a set of user preferences reads on the viewer's selection of catalog pages, for instance of categories when selecting movies; see col. 17, lines 55-60.

Considering claim 11, the recited subject matter is inherent in Hwang.

Considering claim 12, 15 & 25, the claimed host-computing device reads on the operation of the iTV server, col. 17, lines 15-61.

Considering claims 13 & 26, the claimed step reads on the viewer selecting a different viewing mode and being assigned a different Channel-processor in Hwang, see col. 17, lines 1-25.

Considering claims 14 & 27, the claimed feature is broad enough to read on the customer tuning to a regular channel, before requesting a private viewing session.

Considering claim 16, the claimed apparatus for presenting an audiovisual signal to a user's audiovisual monitor, comprising a programming subsystem reads on the iTV stations in Hwang, col. 11, lines 4-24. The claimed Room Communication Subsystem, RCS reads on the operation of the iTV stations, (Fig. 3a; Fig. 5; Fig. 6a&b; col. 7, lines 22-45).



The claimed Site Management Subsystem, SMS also reads on the iTV station & iTV server; see Fig. 2.

As for the recitation of the programming subsystem including a plurality of serving devices communicating with the user's display monitor over the RCS; and the SMS assigning an ACD audiovisual serving device to a particular user to present a menu containing a selection of video programs to the particular user's display monitor over the RCS, the disclosure of Hwang teaches that a viewer may select a private viewing session to retrieve movies, such that the iTV server/stations assign particular Channel-processor to individual users during the private viewing sessions, (Abstract; col. 13, lines 18-54; col. 16, lines 1-10; col. 17).

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Lovett Teaches that when a customer requests a movie, that each customer is assigned a particular modulator 154, which only services that particular subscriber.

B) Stoel Teaches a hotel entertainment system, in which a game engine 58 is dedicated a particular user only.

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**Any response to this action should be mailed to:**

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*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington,  
VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Reuben M. Brown whose telephone number is (703)305-2399.  
The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Chris Grant can be reached on (703)30-4755. The fax phone numbers for the  
organization where this application or proceeding is assigned is (703) 872-9306 for regular  
communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the receptionist whose telephone number is (703) 305-4700.

Reuben M. Brown

  
**REUBEN M. BROWN**  
**PATENT EXAMINER**